

FI. UNDER 5/047/050



## United States Department of the Interior

### BUREAU OF LAND MANAGEMENT

Vernal District Field Office  
170 South 500 East  
Vernal, Utah 84078-2799  
<http://www.blm.gov/utah/vernal>

Phone: (435) 781-4400  
Fax: (435) 781-4410

IN REPLY REFER TO:

3809 N  
(UT-08300)  
UTU-66358

Certified Mail  
Return Receipt Requested  
No. 7000 1530 0003 2411 8353

MAY 10 2001



### DECISION

Mr. Robert Covington  
Hiko Bell Mining and Oil Co.  
P.O. Box 1845  
Vernal, Utah 84078

Extension of Time to Complete  
Outstanding Reclamation Work at  
UTU-66357 Granted

### Background

On November 14, 2000, a Notice of Noncompliance was issued for failure to reclaim notice UTU-66357 at the earliest feasible time. A copy of this decision is enclosed for your convenience. On May 1, 2001 you requested an extension of time to complete the reclamation work required in this Notice of Noncompliance. We are granting an extension of time to the required reclamation work. The reclamation work, listed under item 1 (second page) in the attached Notice of Noncompliance must be completed on or before June 30, 2001.

### What happens if you fail to comply?

Failure to complete the required reclamation work by June 30, 2001 will result in you being required to submit a plan of operations and mandatory bond for all subsequent operations which otherwise be conducted pursuant to a notice under 43 CFR 3809.1-3.

### Can you appeal this decision?

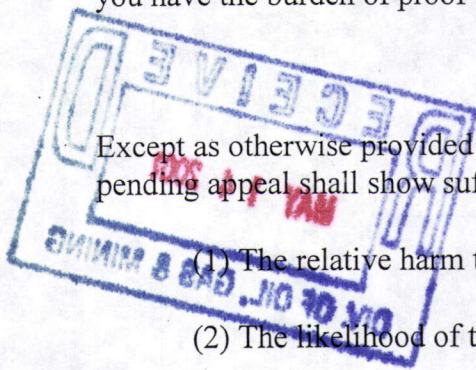
You have the right of appeal to the Utah State Director, Bureau of Land Management ( P.O. Box 45155, Salt Lake City, Utah 84145-0155), in accordance with 43 CFR 3809.4. If you exercise this right, your appeal, accompanied by a statement of reasons and any arguments you wish to present which would justify reversal or modification of the decision, must be filed in writing to this office



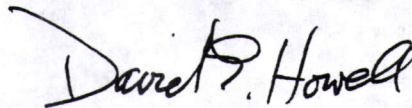
(Bureau of Land Management, Vernal Field Office, 170 South 500 East, Vernal, Utah 84078) within 30 days from the receipt of this decision. This decision will remain in effect during the appeal unless a written request for a stay is granted. If you wish to file a petition pursuant to 43 CFR 3809.4(b) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the State Director, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based upon the standards listed below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- 
- (1) The relative harm to the parties if the stay is granted or denied,
  - (2) The likelihood of the appellant's success on the merits,
  - (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
  - (4) Whether the public interest favors granting the stay.

Sincerely



David E. Howell  
Field Manager

enclosure

cc: Lead claimant of record Pebble Puppy #2-A (UMC366392)  
Utah Div. of Oil, Gas, and Mining (S/047/050)  
Utah State Office UT93513



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7000 0520 0020 3027 0628

Mr. Robert Covington

Hiko Bell Mining and Oil Company

P.O. Box 1845

Vernal, Utah 84078

### NOTICE OF NONCOMPLIANCE

#### Failure to Reclaim Timely

Hiko Bell Mining and Oil Company is the operator of record to the project area under notice UTU66358 according to correspondence dated July 22, 1992. You amended the notice in October 1995 and our office accepted this filing on November 28, 1995. This project area is located within Lots 13 and 14 of Section 6, T.5S., R.24E., SLM. The project area had been inactive for some years before the change of operator filing. The last mineral extraction operations within the project area was noted in 1989 with most processing equipment having been removed by November 1989.

Inspections conducted on September 16, 1992, June 16, 1993, May 16, 1994, September 9, 1994, April 3, 1995, December 12, 1996, October 2, 1997, November 9, 1999, July 20, 2000 and October 23, 2000, after you became operator, reveal the project area has remained in essentially the same inactive state as when you became operator.

Our office communicated with you about your project area in letters dated November 28, 1995, May 21, 1997, October 14, 1998, January 22, 1999, April 14, 1999, July 23, 1999, November 18, 1999, and March 30, 2000 along with numerous telephone conversations about the requirements to reclaim the area. The November 18, 1999 certified letter requested submission of a reclamation plan due to the fact the project area has been in an inactive state for about ten years and that the regulations require reclamation at the earliest feasible time after cessation of operations. This correspondence also

warned of that a notice of noncompliance could be issued if we did not receive information about your plans for reclamation. You did communicate with Peter Sokolosky of this office, in a July 26, 2000 telephone conversation, that the equipment to be used in reclamation was to be repaired relatively soon. However, some ninety days later the inspection conducted on October 23, 2000 revealed reclamation had yet to begin.

The surface management regulations state that "At the earliest feasible time, the operator shall reclaim the area disturbed,...", 43 CFR 3809.1-3(d)(3). Because there has been no activity within your project area for over ten years and disturbances within your project area, both the placer mining area and seven test pits have been in an unreclaimed state for over ten years, the following is ordered.

1. All surface disturbances within the area of past placer mining (purple colored area on enclosure 1) is to undergo reshaping, redistribution of topsoil, and seeding on or before May 1, 2001. Also, the roads (dark dashed lines on enclosure 1) are required to be reclaimed on or before May 1, 2001. In addition to the minimum standards for reclamation under 43 CFR 3809.1-3(d)(4) (see highlight on page 703 of enclosure 2) the guidelines for reclamation found in our correspondence dated April 14, 1999 (enclosure 3) and as well as items a. through f. (below) shall be followed.

a. The operator is responsible for the control of noxious weeds and invasive non-native plants within the areas to be reclaimed (locations shown on enclosed figure). This includes the tamarisk which is growing in the dried settling pond area in the southwest part of the project area (identified on enclosure 1). The control method you employ must be discussed in advance with the Noxious Weed Control Coordinator at the Vernal Field Office.

b. The east-west access road (dark purple dashed line on enclosure 1) does intersect with an existing north-south road which parallels the Green River (approximate point of intersection is indicated). The intersection area is not to be reclaimed; i.e., leave the north-south roadway as it is. Between this intersection and the Green River there is a cut in the river bank, where a water pump was once located. This cut is also part of the disturbances caused under notice UTU66358 and must be reclaimed.

c. Seed used in reclamation must be noxious weed free as per Utah Department of Agriculture regulations. You should ask the seed vendor for written confirmation of the content of the seed used in reclamation along with a statement that it meets Utah Department of Agriculture requirements as being noxious weed free. A copy of these documents shall be provided to the Vernal Field Office within 5 working days of the initiation of seeding.

d. Less than 10,000 pounds of any chemical(s) from EPA's Consolidated list of Chemicals Subject to Reporting Under Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986, and less than the Threshold Planning Quantity (TPQ) of any extremely hazardous substance(s), as defined in 40 CFR 355, shall be used, produced, transported, stored, disposed, or associated with the reclamation operations. Vehicle and equipment fuel,



lubricants, antifreeze and battery acid would be the only hazardous materials used or associated with the reclamation. You will reduce risks of damages as a result of releases by immediately cleaning up any spills of fuels, lubricants, antifreeze or battery acids; and disposing of such in an approved waste disposal facility.

e. The operator shall notify the Vernal Field Office at least two working days prior to the commencement of reclamation and no later than two working days following the completion of reshaping, redistribution of topsoil, filling of test pits and initial seeding of all disturbances, which ever comes last.

f. Following the above steps and notification under 1.d., the Vernal Field Office and the operator will periodically inspect the area to determine the degree of stability and monitor the revegetation of the area. If any stability or vegetation problems are identified, the operator shall be responsible for correcting such. If, after two growing seasons the area is stable and the density of native vegetation is comparable to surrounding undisturbed lands, the BLM would close the surface management case.

Failure to comply will result in the issuance of a record of noncompliance (under the provision of 43 CFR 3809.3-2. During the term of a record of noncompliance, you would be required to file a plan of operation and 100 percent reclamation bond for any the operation under surface management case UTU66354 and any other operation, other than under casual use, conducted by you on any lands administered by the BLM.

You have the right of appeal to the Utah State Director, Bureau of Land Management ( P.O. Box 45155, Salt Lake City, Utah 84145-0155), in accordance with 43 CFR 3809.4. If you exercise this right, your appeal, accompanied by a statement of reasons and any arguments you wish to present which would justify reversal or modification of the decision, must be filed in writing to this office (Bureau of Land Management, Vernal Field Office, 170 South 500 East, Vernal, Utah 84078) within 30 days from the receipt of this decision. This decision will remain in effect during the appeal unless a written request for a stay is granted. If you wish to file a petition pursuant to 43 CFR 3809.4(b) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the State Director, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based upon the standards listed below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

#### Standards for Obtaining a Stay

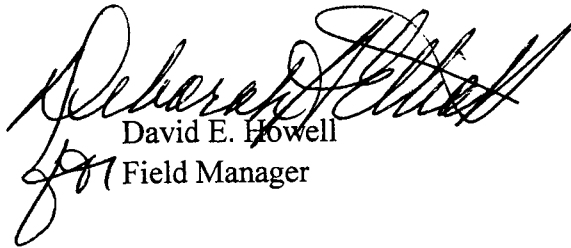
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(3) The likelihood of immediate and irreparable harm if a stay is not granted, and

(4) Whether the public interest favors granting the stay.

Sincerely



David E. Howell  
Field Manager

enclosures

cc: Lead claimant of record Pebble Puppy #2-A (UMC 366392)  
Utah Div. of Oil, Gas, and Mining  
Utah State Office UT093100

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bcc: reading file  
surface management case file UTU66358